

General Information Letter: Income from an inherited IRA may be subtracted.

April 14, 2005

Dear:

This is in response to your letter dated March 18, 2005 in which you request a private letter ruling. Issuance of a private letter ruling in response to a ruling request is within the discretion of the Department. As we discussed during our telephone conversation of April 14, 2005, your particular question is best addressed with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be viewed on the Department's web site at www.Iltax.com.

Your letter states as follows:

Please issue a private letter ruling on how I should report distributions from an inherited traditional Individual Retirement Account [IRA] on my Form IL-1040.

Per Title 02 Part 1200 Section 1200.110 Private Letter Rulings

b) 1) In 2004, I inherited a traditional IRA from my late father, Mr. Z. The bank serving as custodian for the IRA has advised me that the IRA remains my father's IRA until such time as I receive distributions (called "death benefits") from it. According to the IRS, these death benefits are federally taxable income to me. Although I am only age 47, because I am a non-spouse beneficiary of the IRA, the IRS requires me to take required minimum distributions from the IRA over a period not to exceed my remaining life expectancy, which is 37 years. I am also allowed to take additional, non-periodic distributions up to the amount of the balance in the IRA, which are also federally taxable to me.

My late father's IRA is now titled "BENEFICIARY OF IRA." (Attachment A) My father is still the "IRA owner," and I am the "IRA beneficiary," (Attachment B) however, the IRA's Form 1099-R (Attachment C) now lists my social security number since distributions paid from the IRA are now federally taxable to me, instead of to my father. [Attachments A and B refer to BANK and Attachment C refers to CREDIT UNION because I transferred the IRA from CREDIT UNION to BANK after 2004's required minimum distribution had been made.]

While my late father was alive, he reported IRA distributions on Form IL-1040 Line 5 as a subtraction to reach Illinois taxable income. Since the IRA is still technically my father's, I assume I should report distributions from his IRA the same way he did.

b) 2) Document copies attached
A. December 10, 2004, IRA statement
B. November 5, 2004, IRA form setting up beneficiary distributions
C. 2004 Form 1099-R
D. March 11, 2005, E-mail from Illinois Department of Revenue
E. 2004 Instructions for Form IL-1040 Line 5

b) 3) Tax Period ended December 31, 2004. No audit or litigation is pending with the

Illinois Department of Revenue [the Department].

b) 4) To the best of my knowledge, the Department has not previously ruled on the same or a similar issue for me, nor have I previously submitted the same or a similar issue to the Department but withdrew it before a letter ruling was issued.

b) 5) To the best of my knowledge, based on a search of the Department's website, and based on the Department's March 31, 2005 e-mail reply to my email inquiry about where to find information about this issue on the Department's website (Attachment D), the Department's laws and regulations do not specifically mention non-spousal, inherited IRA distributions.

Distributions from an original owner's IRA to the original owner, however, are excluded from Illinois taxable income per 2004 Form IL-1040 Instructions for Line 5 (Attachment E). I assume these instructions apply to all IRA distribution recipients, whether original owner or beneficiary.

Per the Department's March 11, 2005, e-mail reply to my e-mail inquiry, I should report IRA distributions the same as my late father did. (Attachment D)

b) 6) I am unable to locate any authority contrary to my view expressed above in b) 1).

b) 7) Please omit personally identifiable information, such as social security numbers, bank names, bank account numbers, and e-mail addresses from the publicly disseminated version of the private letter ruling.

b) 8) Signed,

RULING

Under the Illinois Income Tax Act ("IITA," 35 ILCS 5/101 *et seq.*), an individual's base income is equal to his or her federal adjusted gross income, modified by certain statutorily prescribed addition and subtraction provisions. See IITA Section 203(a). IITA Section 203(a)(2)(F) provides the following subtraction modification:

An amount equal to all amounts included in [federal AGI] pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto[.]

Section 408(d) of the Internal Revenue Code (26 USC 408(d)) states in relevant part as follows:

Tax treatment of distributions.

(1) In general. Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement plan shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 7701(a)(37) of the Internal Revenue Code (26 USC 7701(a)(37)) defines the term "individual retirement plan" to include an individual retirement account described in IRC Section 408(d).

Accordingly, distributions from an inherited IRA are subtracted from federal AGI in the computation of Illinois base income to the extent provided in IITA Section 203(a)(2)(F).

I hope this information is helpful. If you have further questions concerning this GIL, you may contact me at (217) 782-7055. If you have further questions related to the Illinois income tax laws, visit our website at www.revenue.state.il.us or contact the Department Taxpayer Information Division at (217) 782-3336.

Sincerely,

Brian L. Stocker